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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,255	01/16/2004	Jean-Francois De Bast	21029-00270-US	5693
30678 7590 07/12/2007 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20036			EXAMINER BOES, TERENCE	
			ART UNIT 3682	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,255	<b>Applicant(s)</b> DE BAST ET AL.	
	<b>Examiner</b> Terence Boes	<b>Art Unit</b> 3682	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 9, 11 and 12 is/are allowed.
- 6) ☐ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "...a front catch which may be engaged..." in line 21, rendering the claim indefinite. It is unclear if applicant is claiming that a front catch is engaged, or rather, if applicant is claiming the mere possibility of a front catch being engaged.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-5, and 7, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda US 6,012,356 in view of Beyl US 5,417,128.

Ueda discloses:

- A pedal body (10) mounted to rotate about a pedal spindle (20)
- a first rear hoop (see figure 1, left upper instance of 24) comprising a first rear attachment bar situated behind the pedal spindle and substantially parallel to the pedal spindle,
- the first rear hoop being articulated about a first hoop spindle mounted in bearings of the pedal body (26),
- a first front hoop (see figure 1, right upper instance of 24) comprising a first front attachment bar situated in front of the pedal spindle and substantially parallel to the pedal spindle,
- the first front hoop being articulated about a second hoop spindle (26),
- elastic means (28) urging the first rear hoop and the first front hoop toward a rest position in which a mid-plane of the first front hoop and a mid-plane of the first rear hoop are substantially orthogonal to a mid-plane of the pedal,
- said mid-plane of the pedal passing through a geometric axis of the pedal and being parallel to an upper bearing face (66) of the pedal,
- wherein: the first front attachment bar and the first rear attachment bar are situated above the pedal body and are able to be moved apart (see figure 2)

- the recitation "...to allow the passage and attachment of said cleat" is considered to be an intended use of the device. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus."

Therefore, claim 1 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

- Said cleat comprising a front catch (106) which may be engaged under the first front attachment bar
- the second hoop spindle is situated below said mid-plane of the on an opposite side to the front attachment bar (see figure 2, mid-plane is horizontal line passing through center of pedal body;
- a front upper part of the pedal body is limited by a front face (38),
- said front face being located outside of two sides of the first front hoop and being inclined downward toward its a front of the pedal (see incline in figure 2),
  - the recitation "allowing a greater angular range for clicking in" is considered to be an intended use of the device. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus." Therefore, claim 1

is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

- wherein material is retained around bearings through which the second hoop spindle passes (see figure 2).
- a second rear hoop integral with the first front hoop so as to form a
- rectangular frame (see figure 2), said second rear hoop comprising a second rear attachment bar;
- a second front hoop integral with the first rear hoop so as to form a rectangular frame (see figure 2), said second front hoop comprising a second front attachment bar, wherein said first front hoop and said first rear hoop are located at a top face of the pedal, and wherein the second front hoop and the second rear hoop are located at a bottom face of the pedal.
- wherein said first front hoop comprises at least one lateral stop (68) limiting the freedom of transverse displacement of a cleat fixed under a shoe.

Ueda does not disclose a cleat with at least one edge of said sole being limited by a stud whose thickness is greater than a thickness of the cleat.

Beyl teaches a cleat with at least one edge of said sole being limited by a stud (36, 38, 39 see figures 3-8) whose thickness is greater than a thickness of the cleat for the purpose of maintaining reliable operation even if a cyclist has to walk over relatively wet ground which may stick to the wedge (C1/L50-56).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Ueda and provide a cleat with at least one edge of said sole being limited by a stud whose thickness is greater than a thickness of the cleat, as taught by Beyl, for the purpose of maintaining reliable operation even if a cyclist has to walk over relatively wet ground which may stick to the wedge.

Ueda does not disclose engagement of a front catch under a first front attachment bar being possible while a rear part of a cleat is at a distance above a first rear attachment bar and said stud is bearing against said inclined front face.

Beyl teaches engagement of a front catch (40) under a first front attachment bar (3) being possible while a rear part of a cleat is at a distance above a first rear attachment bar and a stud is bearing against said inclined front face (see figure 3, 36 bears against front face 19, the structure shown in figure 3 allows for this possibility) for the purpose of ensuring that a front part of a sole and a cleat slide relative to a pedal during the time a cleat approaches a front stop member and to prevent interference during this movement between the front of the wedge and the rear fastening member (see abstract).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Ueda and provide engagement of a front catch under a first front attachment bar being possible while a rear part of a cleat is at a distance above a first rear attachment bar and said stud is bearing against said inclined front face, as taught by Beyl, for the purpose of ensuring that a front part of a sole and a

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cleat slide relative to a pedal during the time a cleat approaches a front stop member and to prevent interference during this movement between the front of the wedge and the rear fastening member.

Ueda in view of Beyl discloses the claimed invention except for the inclination of the front face being 40 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the inclination of the front face 40 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 3, a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus." Therefore, claim 3 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

Furthermore, Ueda discloses the claimed invention except for the angular range for clicking in being 25 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the angular range for clicking in 25 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.



Regarding claim 6,

Ueda discloses all of the claimed subject matter as described above. Ueda does not disclose a cap.

Beyl teaches a cap (26) for the purpose of ensuring that a front part of a sole of a cleat slide relative to the pedal while clicking in, thus improving operation (see abstract).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Ueda and provide a cap, as taught by Beyl, for the purpose of ensuring that a front part of a sole of a cleat slide relative to the pedal while clicking in, thus improving operation.

***Allowable Subject Matter***

3. Claims 8, 9, 11 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terence Boes whose telephone number is (571) 272-4898. The examiner can normally be reached on Monday - Friday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TB

TB

6/29/07



RICHARD RIDLEY  
SUPERVISORY PATENT EXAMINER